IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 10TH SEPTEMBER 2007 / 19TH BHADRA 1929

CRL.A.No. 119 of 2001(C)

CC.164/1996 of JUDL. MAGISTRATE OF FIRST CLASS, CHANGANACHERRY
.....

APPELLANT:

M.S.THOMASKUTTY,
MARATTUKALAM, INDUSTRIAL ESTATE NAGAR,
CHANGANACHERRY,
REPRESENTED BY THE POWER OF
ATTORNEY HOLDER K.P.MATHEW,
KADANTHODE, VAZHAPPALLY VILLAGE,
INDUSTRIAL ESTATE P.O.,
CHANGANACHERY.

BY ADV. SRI.S.SANTOSH KUMAR (PERUNAD)

RESPONDENTS:
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1. BABYCHAN @ JOSEPH,
PATHALLIL,
NEDUMKUNNAM P.O.,
NEDUMKUNNAM.

2. THE STATE OF KERALA,
REPRESENTED BY
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY ADV. SRI.K.SASIKUMAR
PUBLIC PROSECUTOR, SRI C.K.SURESH

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 10/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.R.UDAYABHANU, J.

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Crl.A.No.119 of 2001(A)

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Dated this the 10th day of September, 2007

J U D G M E N T

The appellant is the complainant in C.C.No.164/1996 in the file of the Judicial Magistrate of the First Class, Changanachery, with respect to the proceedings initiated under Section 138 of the Negotiable Instruments Act. The accused was acquitted under Section 256(i) of the Code of Criminal Procedure. It is submitted that the lapse was occasioned due to unavoidable circumstances.

In the circumstances, the order of acquittal is set aside. The court below is directed to permit the appellant/complainant to further pursue the matter and dispose of the case on merits. The appellant shall appear before the court below on 22/10/2007. The court below shall issue fresh summons to the accused.

The appeal is allowed.

K.R.UDAYABHANU,
Judge

ms

K.R.UDAYABHANU, J.

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Crl.A.No.119 of 2001(A)

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J U D G M E N T

10th September, 2007